

WSR 23-04-071

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed January 30, 2023, 3:20 p.m., effective March 2, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency amended these rules with housekeeping changes to modernize language. The housekeeping fixes are required to align the definition of "Residential habilitation center" with the definition written in RCW 71A.10.020(11), updated "chemical dependency professional" to "substance use disorder professional" as written in chapters 18.205 RCW and 246-811 WAC, and updated "detoxification" to "withdrawal management" with certification done by the department of health, as written in chapter 246-341 WAC.

Citation of Rules Affected by this Order: Amending WAC 182-500-0050 and 182-502-0002.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: RCW 71A.10.020(11); chapter 18.205 RCW.

Adopted under notice filed as WSR 22-23-009 on November 3, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: January 30, 2023.

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Rules Coordinator

OTS-4186.1

AMENDATORY SECTION (Amending WSR 22-07-105, filed 3/23/22, effective 4/23/22)

WAC 182-500-0050 Washington apple health definitions—I. "Ineligible spouse" see "spouse" in WAC 182-500-0100.

"**Institution**" means an entity that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more people unrelated to the proprietor. Eligibility for a Washington apple health program may vary depending upon the type of institution in which an individual resides. For the purposes of apple health programs, "institution" includes all the following:

- (1) "**Institution for mental diseases (IMD)**" - A hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of people with mental diseases, including medical attention, nursing care and related

services. An IMD may include inpatient substance use disorder (SUD) facilities of more than 16 beds which provide residential treatment for SUD.

(2) **"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)"** - An institution or distinct part of an institution that is:

(a) Defined in 42 C.F.R. 440.150;

(b) Certified to provide ICF/IID services under 42 C.F.R. 483, Subpart I; and

(c) Primarily for the diagnosis, treatment, or rehabilitation for people with intellectual disabilities or a related condition.

(3) **"Medical institution"** - An entity that is organized to provide medical care, including nursing and convalescent care. The terms "medical facility" and "medical institution" are sometimes used interchangeably throughout Title 182 WAC.

(a) To meet the definition of medical institution, the entity must:

(i) Be licensed as a medical institution under state law;

(ii) Provide medical care, with the necessary professional personnel, equipment, and facilities to manage the health needs of the patient on a continuing basis under acceptable standards; and

(iii) Include adequate physician and nursing care.

(b) Medical institutions include:

(i) "Hospice care center" - An entity licensed by the department of health (DOH) to provide hospice services. Hospice care centers must be medicare-certified, and approved by the agency or the agency's designee to be considered a medical institution.

(ii) "Hospital" - Defined in WAC 182-500-0045.

(iii) "Nursing facility (NF)" - An entity certified to provide skilled nursing care and long-term care services to medicaid recipients under Social Security Act Sec. 1919(a), 42 U.S.C. Sec. 1396r. Nursing facilities that may become certified include nursing homes licensed under chapter 18.51 RCW, and nursing facility units within hospitals licensed by DOH under chapter 70.41 RCW. This includes the nursing facility section of a state veteran's facility.

(iv) "Psychiatric hospital" - An institution, or a psychiatric unit located in a hospital, licensed as a hospital under applicable Washington state laws and rules, that is primarily engaged to provide psychiatric services for the diagnosis and treatment of mentally ill people under the supervision of a physician.

(v) "Psychiatric residential treatment facility (PRTF)" - A non-hospital residential treatment center licensed by DOH, and certified by the agency or the agency's designee to provide psychiatric inpatient services to medicaid-eligible people age 21 and younger. A PRTF must be accredited by the Joint Commission on Accreditation of Health care Organizations (JCAHO) or any other accrediting organization with comparable standards recognized by Washington state. A PRTF must meet the requirements in 42 C.F.R. 483, Subpart G, regarding the use of restraint and seclusion.

(vi) "Residential habilitation center (RHC)" - (~~A residence operated by the state under chapter 71A.20 RCW that serves people who have exceptional care and treatment needs due to their developmental disabilities by providing residential care designed to develop individual capacities to their optimum. RHCs provide residential care and may be certified to provide ICF/MR services and nursing facility services.~~) A state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW.

(c) Medical institutions do not include entities licensed by the agency or the agency's designee as adult family homes (AFHs) and boarding homes. AFHs and boarding homes include assisted living facilities, adult residential centers, enhanced adult residential centers, and developmental disability group homes.

(4) **"Public institution"** means an entity that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(a) Public institutions include:

(i) Correctional facility - An entity such as a state prison, or city, county, or tribal jail, or juvenile rehabilitation or juvenile detention facility.

(ii) Eastern and Western State mental hospitals. (Medicaid coverage for these institutions is limited to people age 21 and younger, and people age 65 and older.)

(iii) Certain facilities administered by Washington state's department of veteran's affairs (see (b) of this subsection for facilities that are not considered public institutions).

(b) Public institutions do not include intermediate care facilities, entities that meet the definition of medical institution (such as Harborview Medical Center and University of Washington Medical Center), or facilities in Retsil, Orting, and Spokane that are administered by the department of veteran's affairs and licensed as nursing facilities.

"Institution for mental diseases (IMD)" see "institution" in this section.

"Institutional review board" - A board or committee responsible for reviewing research protocols and determining whether:

- (1) Risks to subjects are minimized;
- (2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result;
- (3) Selection of subjects is equitable;
- (4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative;
- (5) Informed consent will be appropriately documented;
- (6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects;
- (7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data; and
- (8) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant people, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

"Institutionalized spouse" see "spouse" in WAC 182-500-0100.

"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)" see "institution" in this section.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-07-105, § 182-500-0050, filed 3/23/22, effective 4/23/22; WSR 21-19-141, § 182-500-0050, filed 9/22/21, effective 10/23/21; WSR 17-12-017, § 182-500-0050, filed 5/30/17, effective 6/30/17; WSR 15-17-013, § 182-500-0050, filed 8/7/15, effective 9/7/15. WSR 11-14-075, recodified as § 182-500-0050, filed 6/30/11, effective 7/1/11. Statutory Au-

thority: RCW 74.08.090 and 2011 1st sp.s. c 15. WSR 11-14-053, § 388-500-0050, filed 6/29/11, effective 7/30/11.]

OTS-4187.1

AMENDATORY SECTION (Amending WSR 22-15-115, filed 7/20/22, effective 8/20/22)

WAC 182-502-0002 Eligible provider types. The following health care professionals, health care entities, suppliers or contractors of service may request enrollment with the Washington state health care authority (medicaid agency) to provide covered health care services to eligible clients. For the purposes of this chapter, health care services include treatment, equipment, related supplies, and drugs.

- (1) Professionals:
 - (a) Advanced registered nurse practitioners;
 - (b) Anesthesiologists;
 - (c) Applied behavior analysis (ABA) professionals, as provided in WAC 182-531A-0800:
 - (i) Licensed behavior analyst;
 - (ii) Licensed assistant behavior analyst; and
 - (iii) Certified behavior technician.
 - (d) Audiologists;
 - (e) (~~Chemical dependency~~) Substance use disorder professionals:
 - (i) Mental health (~~eare~~) providers; and
 - (ii) Peer counselors.
 - (f) Chiropractors;
 - (g) Dentists;
 - (h) Dental health aide therapists, as provided in chapter 70.350 RCW;
 - (i) Dental hygienists;
 - (j) Denturists;
 - (k) Dietitians or nutritionists;
 - (l) Hearing aid fitters/dispensers;
 - (m) Marriage and family therapists;
 - (n) Mental health counselors;
 - (o) Mental health care providers;
 - (p) Midwives;
 - (q) Naturopathic physicians;
 - (r) Nurse anesthetist;
 - (s) Occularists;
 - (t) Occupational therapists;
 - (u) Ophthalmologists;
 - (v) Opticians;
 - (w) Optometrists;
 - (x) Orthodontists;
 - (y) Orthotist;
 - (z) Osteopathic physicians;
 - (aa) Osteopathic physician assistants;
 - (bb) Peer counselors;
 - (cc) Podiatric physicians;
 - (dd) Pharmacists;
 - (ee) Physicians;

- (ff) Physician assistants;
- (gg) Physical therapists;
- (hh) Prosthetist;
- (ii) Psychiatrists;
- (jj) Psychologists;
- (kk) Radiologists;
- (ll) Registered nurse delegators;
- (mm) Registered nurse first assistants;
- (nn) Respiratory therapists;
- (oo) Social workers; and
- (pp) Speech/language pathologists.
- (2) Agencies, centers and facilities:
 - (a) Adult day health centers;
 - (b) Ambulance services (ground and air);
 - (c) Ambulatory surgery centers (medicare-certified);
 - (d) Birthing centers (licensed by the department of health);
 - (e) Cardiac diagnostic centers;
 - (f) Case management agencies;
 - (g) ~~((Chemical dependency))~~ Substance use disorder treatment facilities certified by the department of ((social and health services (DSHS) division of behavioral health and recovery (DBHR), and contracted through either:
 - ~~(i) A county under chapter 388-810 WAC; or~~
 - ~~(ii) DBHR to provide chemical dependency treatment services.~~
 - ~~(h) Centers for the detoxification of acute alcohol or other drug intoxication conditions (certified by DBHR))~~ health (DOH);
 - (h) Withdrawal management treatment facilities certified by DOH;
 - (i) Community AIDS services alternative agencies;
 - (j) Community mental health centers;
 - (k) Diagnostic centers;
 - (l) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;
 - (m) Family planning clinics;
 - (n) Federally qualified health centers (designated by the federal department of health and human services);
 - (o) Genetic counseling agencies;
 - (p) Health departments;
 - (q) Health maintenance organization (HMO)/managed care organization (MCO);
 - (r) HIV/AIDS case management;
 - (s) Home health agencies;
 - (t) Hospice agencies;
 - (u) Hospitals;
 - (v) Indian health service facilities/tribal 638 facilities;
 - (w) Tribal or urban Indian clinics;
 - (x) Inpatient psychiatric facilities;
 - (y) Intermediate care facilities for individuals with intellectual disabilities (ICF-IID);
 - (z) Kidney centers;
 - (aa) Laboratories (CLIA certified);
 - (bb) Maternity support services agencies; maternity case managers; infant case management, first steps providers;
 - (cc) Neuromuscular and neurodevelopmental centers;
 - (dd) Nurse services/delegation;
 - (ee) Nursing facilities (approved by the DSHS aging and long-term support administration);
 - (ff) Pathology laboratories;

- (gg) Pharmacies;
- (hh) Private duty nursing agencies;
- (ii) Radiology - Stand-alone clinics;
- (jj) Rural health clinics (medicare-certified);
- (kk) School districts and educational service districts;
- (ll) Sleep study centers; and
- (mm) Washington state school districts and educational service districts.

(3) Suppliers of:

- (a) Blood, blood products, and related services;
 - (b) Durable and nondurable medical equipment and supplies;
 - (c) Complex rehabilitation technologies;
 - (d) Infusion therapy equipment and supplies;
 - (e) Prosthetics/orthotics;
 - (f) Hearing aids; and
 - (g) Respiratory care, equipment, and supplies.
- (4) Contractors:
- (a) Transportation brokers;
 - (b) Spoken language interpreter services agencies;
 - (c) Independent sign language interpreters; and
 - (d) Eyeglass and contact lens providers.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-15-115, § 182-502-0002, filed 7/20/22, effective 8/20/22; WSR 22-07-105, § 182-502-0002, filed 3/23/22, effective 4/23/22. Statutory Authority: RCW 41.05.021, 41.05.160 and 2019 c 415 § 211(49). WSR 19-20-046, § 182-502-0002, filed 9/25/19, effective 10/26/19. Statutory Authority: RCW 41.05.021, 2013 c 178, and 2013 2nd sp.s. c 4. WSR 14-06-054, § 182-502-0002, filed 2/27/14, effective 3/30/14. WSR 11-14-075, recodified as § 182-502-0002, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.080, and 74.09.290. WSR 11-11-017, § 388-502-0002, filed 5/9/11, effective 6/9/11.]